



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Pembroke Machine Company, Inc.  
File: B-227360  
Date: June 11, 1987

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### DIGEST

1. Protest is untimely where bases for protest were apparent prior to closing date for submission of proposals but protest was not filed until 3-1/2 months thereafter.
2. Untimely protest will not be considered under "significant issue" exception to timeliness rules when protest does not raise issue of first impression which would have widespread interest to the procurement community.

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### DECISION

Pembroke Machine Company, Inc., a small business, protests any award made by the Department of the Army under request for proposals (RFP) No. DAAA09-86-R-0916, for the supply of certain projectiles. Pembroke asserts that it did not receive the RFP until the week of February 9, 1987, and that the closing date for submission of proposals was February 19. The protest was filed in our Office on June 1, 1987.

We dismiss the protest.

Pembroke's first protests that the short time period between its receipt of the solicitation and the closing date effectively precluded full and open competition. It also maintains that the Army failed to comply with the Federal Acquisition Regulation (FAR), §§ 19.202-1 and 19.502-3 (1986), which provide for the division of large acquisitions into smaller lots to accommodate offers from small businesses. Finally, Pembroke protests that the Army failed to comply with FAR, § 6.401 which, it maintains, required the use of sealed bids for this procurement.

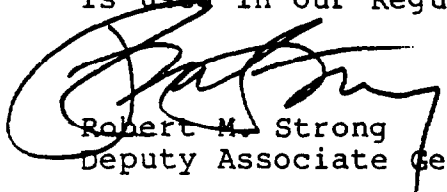
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We have been advised by the Army that this requirement was synopsized in the Commerce Business Daily on August 28, 1986, but the RFP was not issued until February 2, 1987, with a closing date of February 17.

Each of Pembroke's bases for protest concerns an alleged impropriety in the RFP which was apparent to it prior to February 17, the closing date for submission of proposals. Our Bid Protest Regulations provide that protests based on alleged improprieties in a solicitation that are apparent prior to the closing date for receipt of proposals must be filed prior to that date. 4 C.F.R. § 21.2(a) (1986). Since Pembroke did not file its protest until 3-1/2 months after the closing date, its protest is untimely.

Pembroke acknowledges that its protest is untimely, but asks that we consider it under the "significant issue" exception to our timeliness rules, in view of the fact that the same contracting officer allegedly issued another, unidentified, solicitation contemporaneously with this one with a similarly brief deadline for submission of offers. This exception provides for consideration of untimely protests where the protest "raises issues significant to the procurement system." 4 C.F.R. § 21.2(c).

Our Office invokes the "significant issue" exception to our Regulations sparingly so that our timeliness rules do not become meaningless. Further, consideration of protests under this exception is limited to those concerning issues of widespread interest to the procurement community which have not been previously decided. Astrophysics Research Corp., B-224383, July 7, 1986, 86-2 C.P.D. ¶ 42; Griffen Galbraith, B-218933, Sept. 19, 1985, 64 Comp. Gen. 864, 85-2 C.P.D. ¶ 307. Pembroke's protest does not meet the requirements for consideration under this exception. We have issued numerous decisions concerning the time period allowed for preparation of proposals (see e.g., Interior Planning Associates, B-223954, Aug. 22, 1986, 86-2 C.P.D. ¶ 218), alleged discrimination against small businesses (see e.g., Sentry Fire & Welding Supply, B-224058, Nov. 13, 1986, 86-2 C.P.D. ¶ 557), and the necessity of using sealed bidding procedures (see e.g., Kreonite, Inc., B-222439, July 11, 1986, 86-2 C.P.D. ¶ 60). Thus, while we recognize the importance of this matter to the protester, we do not consider the issues it has raised "significant" as that term is used in our Regulations.

  
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